
HOUSE BILL No. 1373

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-8-1-1.3; IC 36-1-8-10.5; IC 36-4-4-2; IC 36-8.

Synopsis: Employees of political subdivisions holding office. Provides that an individual may not be a candidate to be elected to or fill a vacancy on the legislative body of a political subdivision that employs the individual. Provides that an individual may be a candidate for election to or be a member of the legislative body of a political subdivision other than the political subdivision that employs the individual. Provides that an individual who, on June 30, 2009, serves on the legislative body of the political subdivision that employs the individual may complete the term to which the individual was elected or appointed. Makes conforming changes in other statutes.

Effective: July 1, 2009.

DeLaney, Saunders

January 13, 2009, read first time and referred to Committee on Government and Regulatory Reform.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1373

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-8-1-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.3. (a) An individual may not be a candidate to:**

(1) be elected to; or

(2) fill a vacancy on;

the legislative body of a political subdivision that employs the individual.

(b) This section does not prohibit an individual from being a candidate for election to, or being a member of, the legislative body of a political subdivision other than the political subdivision that employs the individual.

(c) This section does not prohibit an individual who, on June 30, 2009, serves on the legislative body of the political subdivision that employs the individual from completing the term of office to which the individual was elected or appointed. This subsection expires July 1, 2013.

SECTION 2. IC 36-1-8-10.5, AS AMENDED BY P.L.1-2005,



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SECTION 231, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2009]: Sec. 10.5. (a) This section does not
apply to the following:

(1) An elected or appointed officer.

(2) An individual described in IC 20-26-4-11.

(b) **Subject to IC 3-8-1-1.3**, an employee of a political subdivision
may:

(1) be a candidate for any elected office and serve in that office if
elected; or

(2) be appointed to any office and serve in that office if appointed;
without having to resign as an employee of the political subdivision.

SECTION 3. IC 36-4-4-2 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The powers of a city are
divided between the executive and legislative branches of its
government. A power belonging to one (1) branch of a city's
government may not be exercised by the other branch.

(b) **Subject to IC 3-8-1-1.3**, a city employee other than an elected
or appointed public officer may:

(1) be a candidate for any elective office and serve in that office
if elected; or

(2) be appointed to any office and serve in that office if appointed;
without having to resign as a city employee.

SECTION 4. IC 36-8-3-12 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. **Subject to
IC 3-8-1-1.3**, members of the safety board and members of any
township, town, or city (including a consolidated city) police
department, fire department, or volunteer fire department (as defined
by IC 36-8-12-2) may:

(1) be candidates for elective office and serve in that office if
elected;

(2) be appointed to any office and serve in that office if appointed;
and

(3) as long as they are not in uniform and not on duty, solicit votes
and campaign funds and challenge voters for the office for which
they are candidates.

SECTION 5. IC 36-8-10-11 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) The sheriff may
dismiss, demote, or temporarily suspend a county police officer for
cause after preferring charges in writing and after a fair public hearing
before the board, which is reviewable in the circuit court. Written
notice of the charges and hearing must be delivered by certified mail
to the officer to be disciplined at least fourteen (14) days before the

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1 date set for the hearing. The officer may be represented by counsel. The
 2 board shall make specific findings of fact in writing to support its
 3 decision.

4 (b) The sheriff may temporarily suspend an officer with or without
 5 pay for a period not exceeding fifteen (15) days, without a hearing
 6 before the board, after preferring charges of misconduct in writing
 7 delivered to the officer.

8 (c) A county police officer may not be dismissed, demoted, or
 9 temporarily suspended because of political affiliation nor after the
 10 officer's probationary period, except as provided in this section.

11 **Subject to IC 3-8-1-1.3**, an officer may:

12 (1) be a candidate for elective office and serve in that office if
 13 elected;

14 (2) be appointed to an office and serve in that office if appointed;
 15 and

16 (3) except when in uniform or on duty, solicit votes or campaign
 17 funds for the officer or others.

18 (d) The board has subpoena powers enforceable by the circuit court
 19 for hearings under this section. An officer on probation may be
 20 dismissed by the sheriff without a right to a hearing.

21 (e) An appeal under subsection (a) must be taken by filing in court,
 22 within thirty (30) days after the date the decision is rendered, a verified
 23 complaint stating in a concise manner the general nature of the charges
 24 against the officer, the decision of the board, and a demand for the
 25 relief asserted by the officer. A bond must also be filed that guarantees
 26 the appeal will be prosecuted to a final determination and that the
 27 plaintiff will pay all costs only if the court finds that the board's
 28 decision should be affirmed. The bond must be approved as bonds for
 29 costs are approved in other cases. The county must be named as the
 30 sole defendant and the plaintiff shall have a summons issued as in other
 31 cases against the county. Neither the board nor the members of it may
 32 be made parties defendant to the complaint, but all are bound by
 33 service upon the county and the judgment rendered by the court.

34 (f) All appeals shall be tried by the court. The appeal shall be heard
 35 de novo only upon any new issues related to the charges upon which
 36 the decision of the board was made. Within ten (10) days after the
 37 service of summons, the board shall file in court a complete written
 38 transcript of all papers, entries, and other parts of the record relating to
 39 the particular case. Inspection of these documents by the person
 40 affected, or by the person's agent, must be permitted by the board
 41 before the appeal is filed, if requested. The court shall review the
 42 record and decision of the board on appeal.

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(g) The court shall make specific findings and state the conclusions of law upon which its decision is made. If the court finds that the decision of the board appealed from should in all things be affirmed, its judgment should so state. If the court finds that the decision of the board appealed from should not be affirmed in all things, then the court shall make a general finding, setting out sufficient facts to show the nature of the proceeding and the court's decision on it. The court shall either:

- (1) reverse the decision of the board; or
- (2) order the decision of the board to be modified.

(h) The final judgment of the court may be appealed by either party. Upon the final disposition of the appeal by the courts, the clerk shall certify and file a copy of the final judgment of the court to the board, which shall conform its decisions and records to the order and judgment of the court. If the decision is reversed or modified, then the board shall pay to the party entitled to it any salary or wages withheld from the party pending the appeal and to which the party is entitled under the judgment of the court.

(i) Either party shall be allowed a change of venue from the court or a change of judge in the same manner as such changes are allowed in civil cases. The rules of trial procedure govern in all matters of procedure upon the appeal that are not otherwise provided for by this section.

(j) An appeal takes precedence over other pending litigation and shall be tried and determined by the court as soon as practical.

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